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Attorney for Petitioner Andrew Padilla

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

United States of America,

Plaintiff,

vs.

Backpage.com, LLC, *et al.*,

Defendants.

NO. CR-18-00465-PHX-SMB

MOTION TO WITHDRAW AS  
COUNSEL OF RECORD

(No Oral Argument Requested)

Undersigned counsel for petitioner/movant Andrew Padilla hereby respectfully moves to withdraw as counsel of record for Mr. Padilla in the above-captioned matter. In the related criminal case, this Court granted undersigned counsel's motion to withdraw as counsel for defendant Padilla and appointed David Eisenberg, Esq., to represent Mr. Padilla. (*United States v. Lacey, et al.*, No. CR-18-00422-PHX-SMB, Docs. 559, 565). That matter also includes representation of Mr. Padilla relating to the criminal forfeiture of his home as alleged in the indictment. Similarly, Mr. Padilla, due to the government's seizure of IOLTA funds no longer is able to financially obtain counsel for this ancillary proceeding to his criminal case. Although Mr. Padilla is not a named defendant in the above-captioned matter, he has filed a petition in the criminal forfeiture proceedings in the matter to determine his interest in funds specifically

1 earmarked for indemnification and advancement of attorneys' fees and costs for his  
2 defense. (*United States v. Backpage.com, LLC, et al.*, No. CR-18-00465-PHX-SMB,  
3 Docs. 29, 71). For the same reasons set forth in defendant's motion in *United States v.*  
4 *Lacey, et al.*, and this Court's order in that case,<sup>1</sup> undersigned counsel hereby moves to  
5 withdraw as counsel for Mr. Padilla in the above-captioned case. As noted in documents  
6 filed under seal with this Court in *United States v. Lacey, et al.*,<sup>2</sup> Mr. Padilla is indigent  
7 and without funds to pay attorneys' fees or costs.  
8

9  
10 Undersigned counsel also respectfully requests this Court to appoint Mr. David  
11 Eisenberg, Esq., to represent Mr. Padilla in the above-captioned matter. The forfeiture  
12 proceedings in the above-captioned matter involve the same parties, facts, and legal  
13 theories and defenses that are involved in *United States v. Lacey, et al.*, and are therefore  
14 "ancillary" to Mr. Eisenberg's representation of Mr. Padilla in that case. Under 18  
15 U.S.C. § 3006A(c), a person for whom counsel is appointed "shall be represented at  
16 every stage of the proceedings from his initial appearance...through appeal, *including*  
17 *ancillary matters appropriate to the proceedings.*" (Emphasis added). *See United States*  
18 *v. Counterfeit Merchandise*, 2011 WL 1667437, \*3 (N. D. Cal. 2011) ("The  
19 Government concedes that the Court has discretion to appoint counsel for a financially  
20 eligible person in a forfeiture action in connection with a related criminal case").  
21  
22

23 Counsel has consulted with David Eisenberg who has agreed to accept CJA  
24

25  
26 <sup>1</sup> *United States v. Lacey, et al.*, No. CR-18-00422-SMB, Docs. 456, 507, 559, incorporated  
27 herein by reference pursuant to LRCrim 12.1 and LRCiv 7.1(d)(2).

28 <sup>2</sup> Also incorporated herein by reference.

1 appointment as Mr. Padilla's counsel in this related ancillary proceeding. Andrew  
2 Padilla is agreeable with the withdrawal of counsel and appointment of Mr. Eisenberg  
3 to represent him in this related ancillary proceeding.  
4

5 For the foregoing reasons, undersigned counsel for Mr. Padilla now respectfully  
6 requests this Court to permit him to withdraw as counsel of record for Mr. Padilla and  
7 to appoint Mr. David Eisenberg, Esq., to represent Mr. Padilla in the above-captioned  
8 matter.  
9

10 RESPECTFULLY SUBMITTED this 21st day of May, 2019.

11 PICCARRETA DAVIS KEENAN FIDEL PC

12 By: /s/ Michael L. Piccarreta  
13 Michael L. Piccarreta  
14 Attorney for Andrew Padilla

15 On May 21, 2019, a PDF version  
16 of this document was filed with the  
17 Clerk of Court using the CM/ECF  
18 System for filing and for Transmittal  
19 of a Notice of Electronic Filing to the  
20 following CM/ECF registrants:

21 Kevin Rapp, [kevin.rapp@usdoj.gov](mailto:kevin.rapp@usdoj.gov)  
22 Margaret Perlmeter: [margaret.perlmeter@usdoj.gov](mailto:margaret.perlmeter@usdoj.gov)  
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25 PDF sent via email to:

26 David Eisenberg: [david@deisenbergplc.com](mailto:david@deisenbergplc.com)  
27  
28